

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
ABRAHAM ABDALLAH,

Plaintiff,

v.

LEXISNEXIS RISK SOLUTIONS FL INC.,
CHEX SYSTEMS, INC.

Defendants.
-----X

Case No. 19-cv-03609 (RRM) (VMS)

**DEFENDANT CHEX SYSTEMS,
INC.'S ANSWER WITH
AFFIRMATIVE DEFENSES TO
PLAINTIFF'S AMENDED
COMPLAINT**

Defendant Chex Systems, Inc. ("Chex" or "Defendant"), by and through its attorneys, Fox Rothschild LLP, files its Answer With Affirmative Defenses to the Amended Complaint of Plaintiff Abraham Abdallah ("Plaintiff"), as follows:

PRELIMINARY STATEMENT

1. Denied as to Chex.
2. Denied as to Chex.
3. The allegations contained in this paragraph are directed to a defendant other than Chex and accordingly, no response is required.
4. The allegations contained in this paragraph are directed to a defendant other than Chex and accordingly, no response is required.
5. Denied.
6. Denied.
7. Denied as to Chex.

8. Admitted in part; denied as to Chex. Chex admits only that Plaintiff purports to have suffered “harm, humiliation, embarrassment, and emotional distress”. Chex denies that Plaintiff’s credit cards and bank accounts were undeservedly closed and further denies that Plaintiff has a factual, legal or equitable basis to recover against Chex based on his purported emotional harm.

INTRODUCTION

9. Admitted in part; denied as to Chex. Chex admits only that Plaintiff purports to seek alleged damages, alleged injunctive relief and alleged attorney’s fees. Chex denies that Plaintiff has a factual, legal or equitable basis to recover these items.

10. Denied. The allegations contained in this paragraph constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

11. Denied. The allegations contained in this paragraph constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

12. Denied as to Chex. The allegations contained in this paragraph constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

13. Denied as to Chex. The allegations contained in this paragraph constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

14. Denied as to Chex. The allegations contained in this paragraph constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

JURISDICTION AND VENUE

15. Denied. The allegations contained in this paragraph concerning alleged jurisdiction constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

16. Denied. The allegations contained in this paragraph concerning alleged jurisdiction constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

17. Denied. The allegations contained in this paragraph concerning alleged supplemental jurisdiction constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

18. Denied. The allegations contained in this paragraph concerning alleged venue constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

PARTIES

19. Denied. After reasonable investigation, Chex is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies them.

20. Denied. The allegations contained in this paragraph constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

21. The allegations contained in this paragraph are directed to a defendant other than Chex and accordingly, no response is required.

22. The allegations contained in this paragraph are directed to a defendant other than Chex and accordingly, no response is required.

23. The allegations contained in this paragraph are directed to a defendant other than Chex and accordingly, no response is required.

24. Admitted.

25. Admitted.

26. Admitted.

27. Admitted.

FACTS

LexisNexis/Accurint

28. The allegations contained in this paragraph are directed to a defendant other than Chex and accordingly, no response is required.

29. The allegations contained in this paragraph are directed to a defendant other than Chex and accordingly, no response is required.

30. The allegations contained in this paragraph are directed to a defendant other than Chex and accordingly, no response is required.

31. The allegations contained in this paragraph are directed to a defendant other than Chex and accordingly, no response is required.

32. The allegations contained in this paragraph are directed to a defendant other than Chex and accordingly, no response is required.

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48. The allegations contained in this paragraph are directed to a defendant other than Chex and accordingly, no response is required.

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51. The allegations contained in this paragraph are directed to a defendant other than Chex and accordingly, no response is required.

52. The allegations contained in this paragraph are directed to a defendant other than Chex and accordingly, no response is required.

53. The allegations contained in this paragraph are directed to a defendant other than Chex and accordingly, no response is required.

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56. The allegations contained in this paragraph are directed to a defendant other than Chex and accordingly, no response is required.

57. The allegations contained in this paragraph are directed to a defendant other than Chex and accordingly, no response is required.

Chex Systems

58. Denied. To the extent the allegations contained in this paragraph constitute conclusions of law, no response is required.

59. Denied. After reasonable investigation, Chex is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies them.

60. Denied. After reasonable investigation, Chex is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies them.

61. Denied as stated. On or about September 21, 2017, Chex received a dispute letter by fax from Plaintiff. The September 21, 2017 letter is a written document that must be examined for its content. If Plaintiff mischaracterizes the content of the letter, Chex denies the mischaracterizations.

62. Denied. After reasonable investigation, Chex is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies them.

63. Denied. After reasonable investigation, Chex is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies them.

64. Denied.

65. Denied.

66. Denied.

67. Denied. After reasonable investigation, Chex is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies them.

68. Denied. After reasonable investigation, Chex is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies them.

69. Denied. After reasonable investigation, Chex is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies them.

70. Denied.

71. Denied. To the extent the allegations contained in this paragraph constitute conclusions of law, no response is required.

72. Denied. To the extent the allegations contained in this paragraph constitute conclusions of law, no response is required.

Damages

73. Denied as to Chex.

74. Denied as to Chex. The allegations contained in this paragraph constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

75. Denied. The allegations contained in this paragraph constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

76. Denied as to Chex. To the extent the allegations contained in this paragraph constitute conclusions of law, no response is required.

77. Denied. To the extent the allegations contained in this paragraph constitute conclusions of law, no response is required.

FIRST CLAIM FOR RELIEF

Failure to Conduct a Reasonable Investigation, 15 U.S.C. § 1681i
Against All Defendants

78. Chex incorporates by reference its answers to all of the preceding paragraphs as if fully set forth herein.

79. Denied as to Chex. The allegations contained in this paragraph constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

80. Denied as to Chex. The allegations contained in this paragraph constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

81. Denied as to Chex. The allegations contained in this paragraph constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

82. Denied as to Chex. The allegations contained in this paragraph constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

SECOND CLAIM FOR RELIEF

Failure to Implement or Follow Reasonable Procedures, 15 U.S.C. § 1681e(b)
Against All Defendants

Count II of Plaintiff's Amended Complaint was dismissed, with prejudice, by the Court in its March 31, 2021 Decision and Order on Defendants' Motion to Dismiss Plaintiff's Amended Complaint. Accordingly, no response is required for paragraphs 83-87 of the Amended Complaint.

THIRD CLAIM FOR RELIEF

Failure to Promptly Investigate, NY FCRA §380-f
Against All Defendants

88. Chex incorporates by reference its answers to all of the preceding paragraphs as if fully set forth herein.

89. Denied as to Chex. The allegations contained in this paragraph constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

90. Denied as to Chex. The allegations contained in this paragraph constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

91. Denied as to Chex. The allegations contained in this paragraph constitute conclusions of law to which no response is required and, accordingly, all such allegations are denied.

FOURTH CLAIM FOR RELIEF

Failure to Establish or Follow Reasonable Procedures, NY FCRA § 380-j
Against All Defendants

Count IV of Plaintiff's Amended Complaint was dismissed, with prejudice, by the Court in its March 31, 2021 Decision and Order on Defendants' Motion to Dismiss Plaintiff's Amended Complaint. Accordingly, no response is required for paragraphs 92-95 of the Amended Complaint.

FIFTH CLAIM FOR RELIEF

Engaging in Deceptive Acts and Practices, NY GBL § 349
Against All Defendants

Count V of Plaintiff's Amended Complaint was dismissed, with prejudice, by the Court in its March 31, 2021 Decision and Order on Defendants' Motion to Dismiss Plaintiff's Amended

Complaint. Accordingly, no response is required for paragraphs 96-108 of the Amended Complaint.

AFFIRMATIVE DEFENSES

By way of further response, Chex asserts the following affirmative defenses to the Amended Complaint.

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Amended Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's claims may be barred, in whole or in part, by the doctrine of unclean hands.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims may be barred, in whole or in part, by the doctrine of laches, waiver, and estoppel.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by his own acts and omissions from recovering any relief.

FIFTH AFFIRMATIVE DEFENSE

To the extent that Plaintiff suffered damages, which Chex denies, Plaintiff failed to mitigate his alleged damages.

SIXTH AFFIRMATIVE DEFENSE

Chex denies that Plaintiff sustained any damages and denies that it proximately caused any of the damages claimed by Plaintiff.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff cannot recover from Chex to the extent that any damages that Plaintiff may have suffered, which Chex continues to deny, directly and proximately resulted from the acts and/or omissions of a third party over which Chex has no responsibility.

ADDITIONAL DEFENSES RESERVED

Chex reserves the right to amend its Answer and to assert additional affirmative defenses as Plaintiff's claims become more fully disclosed during the course of the litigation.

WHEREFORE, Chex respectfully demands judgment in its favor dismissing the Amended Complaint in its entirety with prejudice, together with attorney's fees, interest, costs, and such other and further relief as the Court deems just and proper.

Dated: April 13, 2021
New York, New York

FOX ROTHSCHILD LLP

By: /s/ John A. Wait
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